

Virginia Board of Nursing
Guidance on the Use of Social Media

Applicability

This guidance document of the Board of Nursing applies to all *practitioners* regulated by the Board - including registered nurses, licensed practical nurses, certified massage therapists, certified nurse aides and registered medication aides.

Definition

What, exactly, is social media? Merriam-Webster defines social media as:

...forms of electronic communication...through which users create online communities to share information, ideas, personal messages, and other content...

About.com clarifies that:

...social media would be a social instrument of communication...a website that doesn't just give you information, but interacts with you while giving you that information...a two-way street that gives you the ability to communicate too. Any website that invites you to interact with the site and with other visitors falls into the definition of social media.

Background

The use of Social Media and other electronic communication is increasing exponentially with growing numbers of social media outlets, platforms and applications, including blogs, social networking sites, video sites, and online chat rooms and forums. Practitioners often use electronic media both personally and professionally. Instances of inappropriate use of electronic media by practitioners have been reported to boards of nursing and, in some cases, reported in nursing literature and the media. This document is intended to provide guidance to practitioners using electronic media in a manner that maintains patient privacy and confidentiality.

Social media can benefit health care in a variety of ways, including fostering professional connections, promoting timely communication with patients and family members, and educating and informing consumers and health care professionals.

Practitioners are increasingly using blogs, forums and social networking sites to share workplace experiences particularly events that have been challenging or emotionally charged. These outlets provide a venue for the practitioner to express his or her feelings, and reflect or seek support from friends, colleagues, peers or virtually anyone on the Internet. Journaling and reflective practice have been identified as effective tools in health care practice. The Internet provides an alternative media for practitioners to engage in these helpful activities. Without a sense of caution, however, these understandable needs and potential benefits may result in the practitioner disclosing too much information and violating patient privacy and confidentiality.

Health care organizations that utilize electronic and social media typically have policies governing employee use of such media in the workplace. Components of such policies often address personal use of employer computers and equipment, and personal computing during work hours. The policies may address types of websites that may or may not be accessed from employer computers. Health care organizations also maintain careful control of websites maintained by or associated with the organization, limiting what may be posted to the site and by whom.

The employer's policies, however, typically do not address the practitioner's use of social media outside of the workplace. It is in this context that the practitioner may face potentially serious consequences for inappropriate use of social media.

Confidentiality and Privacy

To understand the limits of appropriate use of social media, it is important to have an understanding of confidentiality and privacy in the health care context. Confidentiality and privacy are related, but distinct concepts. Any patient information learned by the practitioner during the course of treatment must be safeguarded by that practitioner. Such information may only be disclosed to other members of the health care team for health care purposes. Confidential information should be shared only with the patient's informed consent, when legally required or where failure to disclose the information could result in significant harm. Beyond these very limited exceptions the practitioner's obligation to safeguard such confidential information is universal.

Privacy relates to the patient's expectation and right to be treated with dignity and respect. Effective practitioner-patient relationships are built on trust. The patient needs to be confident that their most personal information and their basic dignity will be protected by the practitioner. Patients will be hesitant to disclose personal information if they fear it will be disseminated beyond those who have a legitimate "need to know." Any breach of this trust, even inadvertent, damages the particular practitioner-patient relationship and the general trustworthiness of the profession of nursing.

Federal law reinforces and further defines privacy through the Health Insurance Portability and Accountability Act (HIPAA). HIPAA regulations are intended to protect patient privacy by defining individually identifiable information and establishing how this information may be used, by whom and under what circumstances. The definition of individually identifiable information includes any information that relates to the past, present or future physical or mental health of an individual, or provides enough information that leads someone to believe the information could be used to identify an individual.

Breaches of patient confidentiality or privacy can be intentional or inadvertent and can occur in a variety of ways. Practitioners may breach confidentiality or privacy with information he or she posts via social media.

Examples may include comments on social networking sites in which a patient is described with sufficient detail to be identified, referring to patients in a degrading or demeaning manner, or posting video or photos of patients.

Board of Nursing Implications

Instances of inappropriate use of social and electronic media may be reported to the Board, and it may investigate reports of inappropriate disclosures on social media by a practitioner on the grounds of:

- Unprofessional conduct;
- Unethical conduct;
- Moral turpitude;
- Mismanagement of patient records;
- Revealing a privileged communication; and
- Breach of confidentiality.

If the allegations are found to be true, the practitioner may face disciplinary action by the Board, including a reprimand or sanction, assessment of a monetary fine, or temporary or permanent loss of licensure, certification or registration.

A 2010 survey of Boards of Nursing conducted by the National Council of State Boards of Nursing indicated an overwhelming majority of board responding (33 of the 46 respondents) reported receiving complaints of practitioners who have violated patient privacy by posting photos or information about patients on social networking sites. The majority (26 of the 33) reported taking disciplinary actions based on these complaints. Actions taken included censure of the practitioner, issuing a letter of concern, placing conditions on the practitioner's license or suspension of the practitioner's license.

Possible Consequences

Potential consequences for inappropriate use of social and electronic media by a practitioner are varied. The potential consequences will depend, in part, on the particular nature of the practitioner's conduct.

Improper use of social media by practitioners may violate state and federal laws established to protect patient privacy and confidentiality. Such violations may result in both civil and criminal penalties, including fines and possible jail time. A practitioner may face personal liability. The practitioner may be individually sued for defamation, invasion of privacy or harassment. Particularly flagrant misconduct on social media websites may also raise liability under state or federal regulations focused on preventing patient abuse or exploitation.

If the practitioner's conduct violates the policies of the employer, the practitioner may face employment consequences, including termination. Additionally, the actions of the practitioner may damage the reputation of the health care organization, or subject the organization to a law suit or regulatory consequences.

Another concern with the misuse of social media is its effect on team-based patient care. Online comments by a practitioner regarding co-workers, even if posted from home during nonwork hours, may constitute as lateral violence. Lateral violence is receiving greater attention as more is learned about its impact on patient safety and quality clinical outcomes. Lateral violence includes disruptive behaviors of intimidation and bullying, which may be perpetuated in person or via the Internet, sometimes referred to as "cyber bullying." Such activity is cause for concern for current and future employers and regulators because of the patient-safety ramifications. The line between speech protected by labor laws, the First Amendment and the ability of an employer to impose expectations on employees outside of work is still being determined. Nonetheless, such

comments can be detrimental to a cohesive health care delivery team and may result in sanctions against the practitioner.

Common Myths and Misunderstandings of Social Media

While instances of intentional or malicious misuse of social media have occurred, in most cases, the inappropriate disclosure or posting is unintentional. A number of factors may contribute to a practitioner inadvertently violating patient privacy and confidentiality while using social media. These may include:

- A mistaken belief that the communication or post is private and accessible only to the intended recipient. The practitioner may fail to recognize that content once posted or sent can be disseminated to others. In fact, the terms of using a social media site may include an extremely broad waiver of rights to limit use of content. The solitary use of the Internet, even while posting to a social media site, can create an illusion of privacy. A mistaken belief that content that has been deleted from a site is no longer accessible.
- A mistaken belief that it is harmless if private information about patients is disclosed if the communication is accessed only by the intended recipient. This is still a breach of confidentiality.
- A mistaken belief that it is acceptable to discuss or refer to patients if they are not identified by name, but referred to by a nickname, room number, diagnosis or condition. This too is a breach of confidentiality and demonstrates disrespect for patient privacy.
- Confusion between a patient's right to disclose personal information about himself/herself (or a health care organization's right to disclose otherwise protected information with a patient's consent) and the need for health care providers to refrain from disclosing patient information without a care-related need for the disclosure.
- The ease of posting and commonplace nature of sharing information via social media may appear to blur the line between one's personal and professional lives. The quick, easy and efficient technology enabling use of social media reduces the amount of time it takes to post content and simultaneously, the time to consider whether the post is appropriate and the ramifications of inappropriate content.

Guiding Principles and Tips

Social networks and the **Internet** provide unparalleled opportunities for rapid knowledge exchange and dissemination among many people, but this exchange does not come without risk. Practitioners and students have an obligation to understand the nature, benefits, and consequences of participating in social networking of all types. Online content and behavior has the potential to enhance or undermine not only the individual practitioner's career, but also the profession. The following information includes principles for Social Networking provided by the American Nurses Association (ANA).

- Practitioners must not transmit or place online individually identifiable patient information.
- Practitioners must observe ethically prescribed professional patient — practitioner boundaries.

- Practitioners should understand that patients, colleagues, institutions, and employers may view postings.
- Practitioners should take advantage of privacy settings and seek to separate personal and professional information online.
- Practitioners should bring content that could harm a patient's privacy, rights, or welfare to the attention of appropriate authorities.
- Practitioners should participate in developing institutional policies governing online conduct

How to Avoid Problems

It is important to recognize that instances of inappropriate use of social media can and do occur, but with awareness and caution, practitioners can avoid inadvertently disclosing confidential or private information about patients.

The following guidelines are intended to minimize the risks of using social media:

- Recognize the ethical and legal obligation to maintain patient privacy and confidentiality at all times.
- Do not transmit by way of any electronic media any patient-related image. In addition, practitioners are restricted from transmitting any information that may be reasonably anticipated to violate patient rights to confidentiality or privacy, or otherwise degrade or embarrass the patient.
- Do not share, post or otherwise disseminate any information, including images, about a patient or information gained in the practitioner-patient relationship with anyone unless there is a patient care related need to disclose the information or other legal obligation to do so.
- Do not identify patients by name or post or publish information that may lead to the identification of a patient. Limiting access to postings through privacy settings is not sufficient to ensure privacy.
- Do not refer to patients in a disparaging manner, even if the patient is not identified.
- Do not take photos or videos of patients on personal devices, including cell phones. Follow employer policies for taking photographs or video of patients for treatment or other legitimate purposes using employer-provided devices.
- Maintain professional boundaries in the use of electronic media. Like in-person relationships, the practitioner has the obligation to establish, communicate and enforce professional boundaries with patients in the online environment. Use caution when having online social contact with patients or former patients. Online contact with patients or former patients blurs the distinction between a professional and personal relationship. The fact that a patient may initiate contact with the practitioner does not permit the practitioner to engage in a personal relationship with the patient.
- Consult employer policies or an appropriate leader within the organization for guidance regarding work related postings.
- Promptly report any identified breach of confidentiality or privacy.
- Be aware of and comply with employer policies regarding use of employer-owned computers, cameras and other electronic devices and use of personal devices in the work place.

- Do not make disparaging remarks about employers or co-workers. Do not make threatening, harassing, profane, obscene, sexually explicit, racially derogatory, homophobic or other offensive comments.
- Do not post content or otherwise speak on behalf of the employer unless authorized to do so and follow all applicable policies of the employer.

Conclusion

Social and electronic media possess tremendous potential for strengthening personal relationships and providing valuable information to health care consumers. Practitioners need to be aware of the potential ramifications of disclosing patient-related information via social media. Practitioners should be mindful of employer policies, relevant state and federal laws, and professional standards regarding patient privacy and confidentiality and its application to social and electronic media. By being careful and conscientious, practitioners may enjoy the personal and professional benefits of social and electronic media without violating patient privacy and confidentiality.

References:

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 - Principles for social networking and the nurse.
 - Fact Sheet: Navigating the world of social media.
 - 6 Tips for nurses using social media.
- National Council of State Boards of Nursing. (2011, August). White Paper: A Nurse's Guide to the Use of Social Media. Chicago, IL: Author.